



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,078	02/03/2004	Toshifumi Masaki	1232-5273	4536
27123	7590	06/15/2006		
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			EXAMINER SHIH, THEODORE C	
			ART UNIT 3735	PAPER NUMBER

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/772,078	<b>Applicant(s)</b> MASAKI, TOSHIFUMI	
	<b>Examiner</b> Theodore C. Shih	<b>Art Unit</b> 3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/24/05, 6/25/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: 5/27/04.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities: in the last section "wherein" should read --and--, "compares" should read --for comparing--, and "changes" should read "changing". Appropriate correction is required.
2. Claim 4 is objected to because of the following informalities: in the last section "wherein" should read --and--, "calculates" should read --for calculating--, "compares" should read "comparing", and "effects" should read "effecting". Appropriate correction is required.
3. Claim 7 is objected to because of the following informalities: in line 2, "amount" should read --value--. Appropriate correction is required.
4. Claim 9 is objected to because of the following informalities: in line 6, "the" should read --a--. Appropriate correction is required.
5. Claim 12 is objected to because of the following informalities: in second to last line, "amount" should read --value-- and in the last line "or" should read --of--.  
Appropriate correction is required.
6. Claim 13 is objected to because of the following informalities: in line 2, "amount" should read --value--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing-out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3735

8. Claims 1-3 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 15, applicant claims "changes over a controlling method". It is unclear as to what the "controlling method" controls.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-3 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Shibutani et al.'172 (US Patent 6,217,172). Shibutani et al.'172 teaches an ophthalmologic measuring system including a projecting optical system light beam (col. 5, lines 27-28); measuring optical system (eye examining portion) (col. 4, lines 65-66); light beam from light source (alignment light projecting means) (col. 11, lines 47-48); detecting means for the vertex of the cornea (col. 12, lines 8-29); photodetection element (col. 11, line 24); arithmetic processing unit determining the pupil diameter (calculating means) (col. 13, lines 52-53), comparing the pupil diameter in the horizontal and vertical direction, determining whether the ratio is smaller than a predetermined value (col. 13, lines 62-67, and col. 14, lines 1-7) and proceeding to the next step depending on the comparison value (col. 14, lines 24-31); alignment and adjustment display unit where images of the eye are conformed so that both eye images are within the standard targets.

Art Unit: 3735

11. Claims 4-10, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujieda'576 (US Patent 5,889,576). Fujieda'576 teaches an ophthalmic apparatus including: measurement light sources (col. 3, lines 32-33); measurement optical system (eye examining portion) (col. 3, lines 31-32); front target alignment projecting optical system (col. 3, lines 54-56); controller (detecting means) detecting alignment means with reference to the corneal vertex (col. 4, lines 56-64); CCD camera (col. 4, line 29); controller triggering alignment adjustment in X, Y, Z directions within a predetermined acceptable range (col. 5, lines 13-22) wherein the acceptable range is the pupil diameter (col. 6, lines 44-54); controller judging whether the rectangle area (amount of eccentricity) is within the range of the pupil and continually moves and compare until it is in alignment (col. 6, lines 34-43); and alignment variability where the rectangle area can be compensated (tolerance level) for larger and smaller pupil diameter (col. 6, lines 44-47) alignment being completed when the optical axis and the calculated center of the rectangle area come to approximately the same position (warning means) – when there is a misalignment, the examiner would be warned by seeing that the optical axis and calculated center are not at the same position.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theodore C. Shih whose telephone number is (571) 272-7234. The examiner can normally be reached on 8:30-5:00 est.

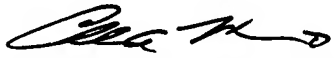
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on (571) 272-4730. The fax phone

Art Unit: 3735

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

7.S.  
6/9/6

  
Charles A. Marmor, II  
SPE, Art Unit 3735